

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 98-116

April 6, 1998

METRACOM CORPORATION D/B/A  
SOLMON CORP.  
Petition for Finding of Public  
Convenience and Necessity to  
Provide Service as a Local  
Exchange Telephone Utility

ORDER GRANTING AUTHORITY  
TO PROVIDE LOCAL SERVICE  
AND APPROVING SCHEDULE  
OF RATES AND TERMS  
AND CONDITIONS

WELCH, Chairman; NUGENT and HUNT, Commissioners

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In this Order, the Commission grants Metracom Corporation d/b/a Solmon Corp. (Solmon Corp. or Company) the authority to provide competitive local exchange service throughout the State of Maine and allows the Company's proposed Terms and Conditions and Rate Schedules to go into effect.

**I. APPROVAL OF APPLICATION TO SERVE**

On February 9, 1998, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, Solmon Corp. filed a petition with the Commission requesting authority to provide local telephone service in Maine. In Docket No. 97-301, Solmon Corp. has previously obtained authority from the Commission to provide interexchange service.

35-A M.R.S.A. § 2105 requires us to find that the public convenience and necessity require another utility to serve where another utility is already authorized or is providing the same or similar service, before we grant approval under section 2102 for an additional public utility to provide service.

47 U.S.C. § 253(a), enacted by the Telecommunications Act of 1996, states:

(a) In General. No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunication service.

47 U.S.C. § 253(b) states, however:

(b) State Regulatory Authority. Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254,

requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

We find that granting Solmon Corp. the authority to provide local exchange service will not impede the preservation or advancement of the public interest goals or policies stated in section 253(b).

We have previously found that Solmon Corp. is qualified to provide interexchange service. We therefore find that its financial and management capabilities are adequate to provide local services in Maine.

## **II. APPROVAL OF TERMS AND CONDITIONS AND RATE SCHEDULES**

We allow the terms and conditions proposed by Solmon Corp. to go into effect. The Company has used the Commission's expedited process. That process includes standard terms and conditions that comply with the Commission's Rules. We have reviewed the Company's petition, Terms and Conditions, and Rate Schedules, and they appear to comply with Maine law and the Commission's Rules. Nevertheless, if there is any conflict between a provision in the Company's terms and conditions and the Commission's Rules or a statute, the rule or statute will govern.

In general, the Commission believes that a competitive telecommunications market results in services and rates that benefit the public. We believe that the acceptability of the Company's services and rates in the market place provides an adequate test of the reasonableness of the Company's rates. Accordingly, we allow the rates proposed by Solmon Corp. to go into effect.

## **III. NEED TO OBTAIN INTERCONNECTION AGREEMENT(S)**

In order to provide local exchange service, a competitive local exchange carrier must, as a practical matter, obtain an interconnection agreement with the ILEC(s) providing service in any area where it intends to provide service. In the absence of such an agreement, it would not be possible for the Company's customers to call customers of the ILEC(s), and vice versa. Interconnection agreements are governed by 47 U.S.C. § 252, and must be approved by this Commission. On January 6, 1998, the Commission approved a resale agreement between Solman Corp. and New England Telephone and Telegraph Company d/b/a Bell Atlantic filed in Docket No. 97-932.

If a competitive local exchange carrier (CLEC) makes a bona fide request for an interconnection agreement with an ILEC that is a "rural telephone company" as defined in 47 U.S.C. § 153(37), the "rural exemption" of 47 U.S.C. § 251(f) will apply. All of Maine's independent telephone companies are "rural telephone companies." A rural telephone company is not required to negotiate an interconnection agreement or provide interconnection until after the Commission, pursuant to 47 U.S.C. § 251(f)(1)(B), finds that the requirement "is not unduly economically burdensome, is technically feasible, and is consistent with [the universal service provisions of] section 254 . . . ."

As a condition of providing local exchange service, Solmon Corp. must comply with the terms of any interconnection agreements that it has reached with any ILECs and that have been approved by the Commission.

#### **IV. WAIVERS; REPORTING REQUIREMENTS**

As a condition of providing local exchange service, Solmon Corp. must comply with the terms of any applicable Commission orders or rules that may govern local interconnection and compensation for interconnection. Solmon Corp. shall also comply with any applicable Commission Rules or orders that govern universal service, public safety and welfare, service quality and consumer rights.

The Commission granted waivers from the requirements of Chapter 210 of the Commission's Rules, which governs telephone utility accounting, and from 35-A M.R.S.A. §§ 707 and 708, which govern reorganizations and affiliated interests, in Docket No. 97-301. Solmon Corp. must report its annual intrastate gross operating revenues and its annual intrastate minutes for use for the purpose of determining its regulatory assessment.<sup>1</sup> If Solmon Corp. resells service to other switched or switchless telephone service providers, the Company must maintain its records so that it may separately identify those sales.

In addition, Solmon Corp. shall inform the Commission of any changes to its corporate structure and ownership and of any changes in the name under which it does business. If necessary, it shall also refile its rate schedules and terms and conditions to reflect its new identity.

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<sup>1</sup>The Commission mails the annual reporting forms to carriers in January of each year. The completed forms are due by April 1 of each year.

**V. OTHER REQUIREMENTS**

Solmon Corp. shall comply with all applicable rules of the Commission and statutes of the State of Maine.

**VI. ORDERING PARAGRAPHS**

Accordingly, we

1. Grant, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, the request of Metracom Corporation d/b/a Solmon Corp. to provide local exchange telephone service to all areas within the State of Maine;

2. Require Metracom Corporation d/b/a Solmon Corp. to notify the Commission of any reorganization, as defined in 35-A M.R.S.A. § 707(1)(A), that results in a merger, sale or transfer of a controlling interest of Metracom Corporation d/b/a Solmon Corp. or of any entity that owns more than 50% of Metracom Corporation d/b/a Solmon Corp. Metracom Corporation d/b/a Solmon Corp. shall also provide notice of any other changes in the name under which it does business (d/b/a), any change of the location of its business office, and change of its contact person. Metracom Corporation d/b/a Solmon Corp. shall provide the Administrative Director of the Commission with notice of any of the changes described within 30 days following the change. If necessary, Metracom Corporation d/b/a Solmon Corp. shall amend its rate schedules and terms and conditions to reflect any change in identity; and

3. Direct that Metracom Corporation d/b/a Solmon Corp.'s proposed terms and conditions and rate schedules (Maine P.U.C. Tariff No. 2, Original Title Sheet and Original Sheets 1 through 32), attached to this Order, shall be effective on the date of this Order.

Dated at Augusta, Maine, this 6th day of April, 1998.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR: Welch  
Nugent  
Hunt

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.